

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

LASOAH SAVANT, ADC #141211

PLAINTIFF

v.

NO. 5:13CV00257 JLH/BD

THANE HUYARD

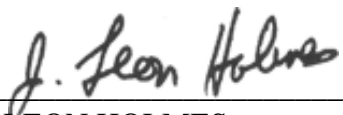
DEFENDANT

ORDER

The Court has received a Recommended Disposition (“Recommendation”) from Magistrate Judge Beth Deere. After careful review of the Recommendation, the timely objections, as well as a *de novo* review of the record, the Court concludes that the Recommendation should be, and hereby is, approved and adopted as this Court’s findings in all respects. Lasoah Savant has submitted evidence to contradict his earlier deposition testimony in which he stated that he had not told Thane Huyard that he was going to file a grievance against him. It is well settled that a party cannot create a sham issue of fact in an effort to defeat summary judgment by filing an affidavit that directly contradicts his prior deposition testimony. *Herring v. Canada Life Assur. Co.*, 207 F.3d 1026, 1030 (8th Cir. 2000). Savant has also filed a motion for leave to amend the complaint to add as a defendant a party that was previously dismissed without prejudice. It appears that permitting the amendment would be futile, so the motion is denied. All other pending motions are denied as moot.

The motions for summary judgment are GRANTED. Documents #84 and #98. Savant’s claims are DISMISSED with prejudice.

IT IS SO ORDERED this 5th day of June, 2014.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE